

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BRANDIN LEE JOHNSON,

Plaintiff,

v.

QUANISHA HOLLOWAY, et al.,

Defendants.

Case No. 2:20-cv-01005-APG-EJY

REPORT AND RECOMMENDATION

On June 1, 2020, *pro se* inmate Plaintiff filed what appeared to be a Complaint with the Clerk of Court. ECF No. 1-1. Plaintiff did not submit an *in forma pauperis* application or pay the \$400 filing fee.

On July 17, 2020, the Court granted Plaintiff a “one-time extension to file a fully complete application to proceed *in forma pauperis* . . . , or in the alternative, pay the full \$400 filing fee for this action on or before August 17, 2020.” ECF No. 4 at 1 (internal alterations omitted). The Court noted that it may recommend dismissal of this case without prejudice if Plaintiff failed to follow these instructions. *Id.* at 1-2. The Court’s July 17, 2020 Order was returned as undeliverable on July 31, 2020. ECF No. 5. Ultimately, Plaintiff failed to timely file an *in forma pauperis* application or pay the \$400 filing fee.

On November 3, 2020, the Court ordered Plaintiff to show cause by November 17, 2020 why this action should not be dismissed for failure to comply with the July 17, 2020 Order. ECF No. 6 at 2. The Court noted that Plaintiff failed to update his address in accordance with Local Rule IA 3-1, which provides that a “pro se party must immediately file with the court written notification of any change of mailing address[.] . . . Failure to comply with this rule may result in the dismissal of the action.” Plaintiff was warned that a failure to timely respond to the Court’s Order to Show Cause “shall result in a recommendation to the district judge to dismiss this action.” ECF No. 6 at 2. The Court’s Order to Show Cause was returned as undeliverable on November 12, 2020. ECF No. 7.

1 To date, Plaintiff has not filed a complete *in forma pauperis* application or paid the \$400
2 filing fee, updated his address or responded to the Court's Order to Show Cause.

3 Accordingly,

4 IT IS HEREBY RECOMMENDED that this action be DISMISSED without prejudice.

5 DATED THIS 2nd day of February, 2021.

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8 ELAYNA J. YOUCHAH
9 UNITED STATES MAGISTRATE JUDGE

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11 **NOTICE**

12 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be
13 in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has
14 held that the courts of appeal may determine that an appeal has been waived due to the failure to
15 file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit
16 has also held that (1) failure to file objections within the specified time and (2) failure to properly
17 address and brief the objectionable issues waives the right to appeal the District Court's order
18 and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153,
19 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).